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BY E-MAIL
SEALING REQUESTED

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September 26, 2023

Honorable Kenneth M. Karas
United States District Judge
300 Quarropas Street
White Plains, New York 10601

Re: U.S.A. v. Marcos Cruz
16 CR 832 (KMK)

Dear Judge Karas,

On October 3, 2023 Your Honor will impose sentence on Marcos Cruz for the criminal conduct he engaged in back in 2016, which he described during his testimony at the trial of Nick Tartaglione. I have reviewed the Government's letter to you dated September 21, 2023, as well as the pre-sentence report prepared by Probation ("PSR"). I respectfully but forcefully urge Your Honor to follow Probation's recommendation and impose a sentence of time served, which in this case amounts to six and one half years.

The Government's letter and the PSR contain eloquent and forceful support for Probation's recommended sentence and, quite candidly, I cannot present to you any fact or argument that is not already before you through those submissions and through your own observation of Mr. Cruz as he testified before you. Nevertheless, I submit the following for your consideration.

Honorable Kenneth M. Karas

September 26, 2023

Page 2

I was appointed Mr. Cruz's attorney in December of 2016, shortly after he began speaking to the investigating agents. He was an emotional mess the first day I met him and, nearly seven years later, he is not much better. As Ms. Comey describes in her letter to you, during most if not each of the dozens of proffer sessions and trial preparation meetings had during that period, when speaking of the underlying events he frequently vomited, a reaction he repeated before you during his testimony at the Tartaglione trial.

In her letter to Your Honor Ms. Comey describes what occurred at the gravesite of the four murdered individuals immediately after Mr. Cruz identified the location to the investigating agents: "[I]mmediately after leading investigators to the gravesite, Cruz told the investigators that they could kill him." That statement by Mr. Cruz was a request as much as it was an expression of belief. I make that assertion with a high degree of confidence because at various points during the six years of his cooperation Mr. Cruz expressed –to me as well as to others in my presence- a desire to die so that his anguish could come to an end, a sentiment he again expressed at trial during his cross-examination.

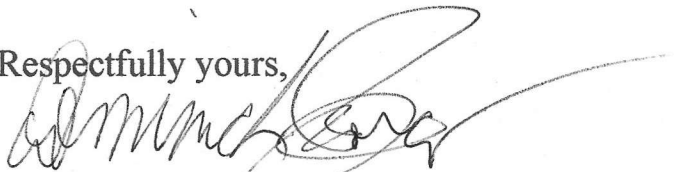
This was, and even after all this time remains, a man in the depths of despair, utterly overwhelmed by guilt. Most cooperating defendants regret their crimes and express

Honorable Kenneth M. Karas
September 26, 2023
Page 3

genuine repentance, but the degree and sincerity of Mr. Cruz' remorse is beyond anything I have seen in the forty-seven years I have been practicing federal criminal law.

Whatever punishment Your Honor imposes on Mr. Cruz will have an expiration date; his self-inflicted torment will not, at least not until he learns to forgive himself.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Domenick J. Porco", with a long, sweeping horizontal line extending to the right.

DOMENICK J. PORCO
DJP/dp

cc.: (by e-mail): Maurene Comey, AUSA